

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Valley Forge Insurance Company,

Plaintiff,

v.

David Hawkins,

Defendant.

Civil Action No. 2:25-cv-00123-DCN

COMPLAINT
(Declaratory Judgment—Nonjury)

Plaintiff, Valley Forge Insurance Company (“Valley Forge”), brings this action against Defendant David Hawkins seeking declaratory relief as to the non-existence of Uninsured Motorist coverage for a vehicle collision that occurred in Charleston County. In support the requested declarations, Valley Forge would show as follows:

PARTIES, JURISDICTION, AND VENUE

1. Valley Forge is incorporated under the laws of the Commonwealth of Pennsylvania and maintains its principal place of business in the State of Illinois.

2. David Hawkins (“Hawkins”) is a citizen and resident of Wichita County, State of Texas. This Court has specific personal jurisdiction over Hawkins because he was traveling in the State of South Carolina at the time he was injured in the vehicular collision giving rise to this action, and Hawkins has filed a civil action in the State of South Carolina seeking damages in connection with that vehicular collision.

3. Pursuant to 28 U.S.C. § 1332, this Court has subject matter jurisdiction over this action between citizens of different states in which the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

4. Venue is proper in this District and the Charleston Division because the vehicular collision giving rise to this action occurred in Charleston County and the underlying civil action for which Hawkins seeks recovery is pending in Charleston County.

FACTUAL ALLEGATIONS

5. On February 27, 2021, Hawkins, who was employed by Granite Construction Incorporated (“Granite Construction”), was a passenger in a truck owned by Granite Construction and being operated by an employee of Granite Construction on Bohicket Road near Kiawah Island.

6. With no fault by Hawkins, Granite Construction, or the driver of the truck owned by Granite Construction, Hawkins was injured when the driver of a vehicle in the oncoming lane failed to maintain lane control and crossed over the center lane, causing a head on collision.

7. On October 1, 2012, Valley Forge issued policy number 2074978692 (“Policy”) to Granite Construction to provide specified automobile insurance coverage in accordance with the Policy’s terms and conditions.

8. The Policy was renewed multiple times, including for the period October 1, 2020, to October 1, 2023, during which the vehicular collision occurred.

9. The truck owned by Granite Construction that was involved in the collision on February 27, 2021, was garaged in the State of Florida.

10. Because Granite Construction owned trucks that were garaged in the State of Florida, and because Granite Construction did not purchase Uninsured Motorist or Underinsured

Motorist (“UIM”) coverage, Granite Construction on September 12, 2012, executed a Florida Uninsured/Underinsured Motorists Supplemental Application (“UIM Waiver”).

11. In the UIM Waiver, Granite Construction elected to “reject Uninsured Motorist coverage.”

12. The UIM Waiver defined an uninsured motor vehicle to “include a motor vehicle as to which the bodily injury limits are less than your damages.”

13. The truck owned by Granite Construction that was involved in the vehicular collision was subject to the UIM Waiver.

14. Because Granite Construction rejected UIM coverage, the Policy does not provide UIM coverage, and no premium was charged by Valley Forge for UIM coverage.

15. On February 22, 2024, Hawkins served Valley Forge, as a purported UIM carrier, with the summons and complaint Hawkins filed against the at fault driver.

16. On February 27, 2024, Hawkins demanded that Valley Forge tender the full policy limits for the Policy for what he captioned an “UNDERINSURED MOTORIST CLAIM.” Hawkins’ demand was accompanied by what Hawkins characterized as medical bills and lost wages exceeding \$325,000.00.

17. Subject to a full reservation of rights, Valley Forge has appeared to defend the underlying civil action in the name of the at fault driver until this declaratory judgment action can be adjudicated.

FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment—28 U.S.C. § 2201)

18. The preceding paragraphs are incorporated by reference as if fully restated.

19. The UIM Waiver executed by Granite Construction was a legally effective waiver under Florida law and remained legally effective for each of the renewal periods for the Policy, including the renewal period during which the vehicular collision occurred.

20. Upon information and belief, Granite Construction agrees that it did not desire or purchase UIM coverage, and Granite Construction agrees that the UIM Waiver was a legally effective waiver under Florida law and remained legally effective for each of the renewal periods for the Policy, including the renewal period during which the vehicular collision occurred.

21. Because Hawkins is seeking UIM coverage from Valley Forge that does not exist, declaratory judgment pursuant to 28 U.S.C. § 2201 is appropriate to declare the rights of the parties to this controversy.

22. Pursuant to 28 U.S.C. § 2201, Valley Forge is entitled to a declaration that the Policy does not provide UIM coverage, and that, under the Policy's terms and conditions, Valley Forge owes no financial or other obligation to Hawkins with respect to the vehicular collision on February 27, 2021.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff, Valley Forge Insurance Company, respectfully requests that the Court enter a declaration as set forth in Plaintiff's First Cause of Action and that the Court grant such additional relief as the Court may deem appropriate.

[SIGNATURE ON FOLLOWING PAGE]

/s/ Kevin K. Bell

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January 6, 2025